

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Hermès International and
Hermès of Paris, Inc.,
Plaintiffs,

vs.

Mason Rothschild,
Defendant.

Civil Action No. 22-cv-00384 (JSR)

Supplement to Expert Report of Scott Duke Kominers, Ph.D.
August 26, 2022

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1. I am Scott Duke Kominers. I am a Professor of Business Administration in the Entrepreneurial Management Unit at Harvard Business School (HBS), and a Faculty Affiliate of the Harvard Department of Economics, as well as a Research Partner at a16z crypto.
2. This is a supplement to my expert report submitted on August 5, 2022.

Purpose

3. The purpose of this supplement is to introduce and explain new evidence supporting some of the findings in my report, arising from a Twitter Spaces audio conversation between Rothschild, Jacob Pace, and others recorded on August 16, 2022 and a Twitter Spaces audio conversation between Rothschild and others recorded on August 23, 2022 (both of which were after the submission of my report on August 5, 2022).¹

Relevant Remarks from the Twitter Spaces Audio Conversations

4. In paragraphs 3 and 40-41 of my report, I identified a distinction between “‘art-only’ NFTs, which serve just to convey ownership of (often digital) artworks, imagery, collectibles or similar—without any other utility or direct holder benefits” and “‘digital brand’ NFTs, which use digital assets such as art, imagery, or collectibles as a springboard for establishing a broader product ecosystem, holder community, and brand.” In the both Twitter Spaces, Rothschild made statements that apparently acknowledge this distinction.
 - (a) In the August 16 Twitter Space (transcript page 11, line 19), Rothschild explained with regard to a new venture he is launching via his clothing store, Terminal 27:

“[W]e’re acting as this kind of, you know, middle ground for fashion brands to enter Web3 and do it in an authentic way where, you know, if they’re more art driven or if they’re more like collectible driven, we can accommodate that versus, you know, having this kind of money grab feel to like whatever product they drop. You know, like I feel like a lot of NFT projects, like they’ll drop like a virtual version of like a tee shirt, you know. And then maybe you can claim it for something else. And I feel like that’s such a basic way of thinking when you can really prolong the engagement with your customer or your kind of client long-term by just constantly rewarding them, you know?”
 - (b) In the August 16 Twitter Space (transcript page 56, line 1), Rothschild criticized Gucci’s NFT projects for being “purely art,” and argued that this has diluted Gucci’s web3 brand position because of the lack of “utility:”

¹Because there exists a court transcript of the August 16 Twitter Space, I use page and line numbers for quotes. For the August 23 Twitter Space, a transcript is not yet available, so I use approximate time stamps that refer to the time in the Twitter Space that the quote occurred.

Please note that in a couple of places, the transcript appears to have minor transcription errors, especially in the case of specific terminology such as the names of certain NFT projects. For clarity, I have corrected these issues where I found them; my corrections are denoted in <angle brackets>, with explanations in adjacent footnotes.

“I don’t agree with all of Gucci’s projects that have been in Web3 thus far. I think they’re a little bit like useless and, you know – [...] it’s too obvious. And like, honestly, like there’s no real like utility to it. It doesn’t – like it doesn’t do anything. Like it’s purely art and I get that. But I feel like now they’ve just diluted their brand in Web3 to like not really have much behind it [...]”

- (c) In the August 23 Twitter Space (at roughly 0:07:51 into part 1), Rothschild acknowledged that not all NFT projects are “art-centered,” in the context of saying that his forthcoming Rodeo NFT project predominantly would be:

“[W]ith Rodeo I really wanted to kind of create a smaller project – like not a 10K PFP type thing – I want to do something a little bit more art centered.”

- (d) In the August 23 Twitter Space (at roughly 0:13:21 into part 1), Rothschild acknowledged that he is working on both web3 projects that are “artistically-driven” and web3 projects that are “utility-driven:”

“And I’m glad that I finally have this kind of like umbrella company that’s so focused on like web3 infrastructure as well as projects you know, both artistically driven and and kind of like utility driven.”

5. In paragraphs 44e-f of my report, I described how established brands can bring existing brand recognition and demand to their NFT projects. In the August 16 Twitter Space (transcript page 8, line 14), Rothschild acknowledged this as well, and went on to suggest that brands have significant opportunities to leverage this in web3:

“[W]hat, I guess, luxury fashion itself has, you know, going for it, that really like, you know, has withstood the test of time is the loyalty that comes with being part of like, you know, this kind of ecosystem that is like the (Kering Group)² or LVMH, or just like brand to brand. And I feel like a lot of platforms or companies aren’t really utilizing that to their advantage to really know who their true customer is. You know, I think that’s a really – like with whether it be like a (POAP)³ or, you know, those proof of attendance protocols, or something like that for people who visit your space or visit your store or visit multiple stores, where it becomes almost like a collectible item [...]. And I think not a lot of people are doing or taking the necessary steps to make that such a like a big part of their business, you know? And I think a lot of what it is is just like the miseducation. And I think too is just like the majority of people are like not onboarded quite yet to Web3 and blockchain.”

6. In paragraphs 4 and 49 of my report, I found that “the MetaBirkins NFT project had attributes closely consistent with those of NFT projects in the digital brand submarket—including promises of utility, active community engagement, and certain promotional activities common to digital brand NFTs.” Statements made by Rothschild and others in the August 16 Twitter Space reinforce that conclusion.

²It appears the the famous luxury fashion “Kering Group” was transcribed as “caring group.”

³It appears that “POAP”—a type of NFT that implements the subsequently mentioned “proof of attendance protocol”—was transcribed as “poll app.”

- (a) In the August 16 Twitter Space (transcript page 46, line 23), Rothschild briefly referred to MetaBirkins as “artwork,” but then immediately went on to explain how utility and community are intimately tied in as a core source of value:

“The NFT is just like the way of trans- – you know, transferring it, like selling it or buying it or trading it or whatever. But what you’re really pointing to in like in my case is you’re pointing to an artwork, whether it’s you know Amber’s artwork ⟨with I Like You, You’re Weird⟩⁴, or if it was MetaBirkins with, you know, like my artwork. And that’s all it really is. And I think like when we – we’ve all – we’re all guilty of it, you know, utilizing the term like utility and this and that. It’s just like these keywords don’t feel very welcoming to somebody who has no idea what the fuck we’re talking about, you know? [...]” (page 47, line 23) “Like I bet like a lot of you guys listening and stuff thought like at one point – even me – I was like, why the fuck would people buy this like digital artwork? You know? But then you realize that the use cases and stuff behind it, being able to create this kind of like club or membership, you know, between an audience or community, and being able to kind of like reward those who support you or support your project, you know, endlessly, by knowing what their wallet address and being able to gift them things and, you know, being able to kind of like know who your core fans are, and having, you know, these kind of like outlets to discord where you can interact on a daily basis, like, you know, in seconds.”

- (b) In the August 16 Twitter Space (transcript page 76, line 10), Rothschild talked about a new form of potential utility for MetaBirkins holders (as well as I Like You, You’re Weird holders) in the form of access to his new Terminal 27 pass (presumably an NFT project), which Rothschild explained will furthermore have its own various forms of utility:

“So we’re actually launching ⟨Terminal’s⟩⁵ like Web3 platform in like late October. So, what we’re going to be able to do is we’re going to launch a pass alongside of it, and you know, kind of like Ledger Market, but with a with a IRL [In Real Life] experience as well, where we are partnering with different fashion brands, you know some that people recognize. The first one’s going to be Mowalola, you know from like Kanye’s camp. We’re going to release a – I think it’s gonna be 250. It’s like a small collection because we can’t scale so big because our events only have like a certain amount of capacity, you know? So people who hold our Terminal pass will get access, you know, to token gated products on the website. They’ll get access to the different events. You know, like let’s say we threw another party like with The Weeknd, Kaytranada or Peggy Gou, or whatever, they would gain access to that. And we’re actually – we have a partnership with like a major label that we’re starting in a few months where they’re gonna launch and do all their listening sessions with us. And I think we’re doing one with Steve Lacy in a couple weeks. [...]” (page 79, line 1) “[...] and hopefully I can, you know, allocate some passes to ⟨the I Like You, You’re Weird

⁴It appears that “with I Like You, You’re Weird” (referencing the name of one of Rothschild’s NFT projects) was transcribed as “without like your weird.”

⁵It appears the transcriber did not realize that “terminals” in context was a possessive (referring to Terminal 27, Rothschild’s clothing store).

community)⁶, the MetaBirkins community, and really – [...] – kind of take people along for the ride, you know? That’s really important for me. And like, you know, like to your point, like, you know, giving people access to like different discounts and stuff. Or what we were planning on doing is giving people access to sales before anybody else. You know, kind of like doing a presale for people who hold a pass.”

- (c) In the August 16 Twitter Space (transcript page 52, line 1), Pace mused on theoretical real-world product concepts that could be built off of MetaBirkins, potentially with royalties (again, theoretically) flowing to the holders of the NFTs:

“So that’s why when I saw that, I was like, man, it’s like opportunities like this where there’s a moment where Hermès could actually lean into this and be like, hey, we actually want to turn these into physicals. Because I actually think those bags that you [Rothschild] made are super marketable by more than just someone that wants to buy an NFT image, right? And then imagine if those bags go for sale, you get a percentage and also the person who bought it gets a percentage, right? And then it just keeps extending this like – you know, maybe they’re ahead and everyone, you know, has these like Hermès bags that started as an NFT. Now it’s like the hot new thing in fashion, and when people look at them and you tell them the story behind the bag, you tell them *it*⁷ started off as an NFT project.”

Rothschild acknowledged and agreed with Pace’s concept (page 54, line 1 of the August 16 Twitter Space transcript):

“And it was so organic, you know. And I think like, you know, there was definitely so much opportunity for that to be a little bit more of a fruitful situation for both kind of parties.”

- (d) Additionally, Rothschild’s statements in the August 16 Twitter Space to the effect that Gucci’s NFT projects were suboptimally executed because they were “purely art” (quoted in paragraph 4b, above) support the idea that Rothschild generally felt that NFT projects should build community and utility to be truly successful.
7. The utility described in paragraph 6b above also reinforces my observation, made in paragraphs 49-51 of my report, that Rothschild was apparently planning to drive utility to MetaBirkin holders via “access to future projects and airdrops.”
8. In paragraph 61 of my report, I observed that the Hermès brand association was a core component of the digital brand that Rothschild was building around the MetaBirkins. Statements made in the August 16 Twitter Space support that conclusion, as well.
- (a) In the August 16 Twitter Space (transcript page 6, line 20), Pace recognized that Rothschild took the IP of Hermès to create something of his own:

“[...] like kind of what you did with Hermès, like creators wanting to take brands and – or any kind of IP, right, even music, and do whatever they want with it[...].”

⁶It appears that the rapidly spoken “the I Like You, You’re Weird community” was transcribed as “like (indiscernible) like your Weird community.”

⁷It is difficult to fully discern in the audio, but context suggests that “you tell them it” was transcribed as “you tell them you.”

While Rothschild did not directly acknowledge Pace's assertion, he went on to say (page 8, line 6 of the August 16 Twitter Space transcript):

“the proof is in the pudding for like the kind of pioneers in the space to kind of test the limits of what can be done and how we can utilize this cool new technology.”

Dated: August 26, 2022

A handwritten signature in black ink, appearing to read "Scott Kominers", with a stylized, flowing script.

Scott Duke Kominers

Appendices

1 Documents Considered

Transcript of Mason Rothschild's Twitter Space audio recording from August 16, 2022

Audio and video recording of Mason Rothschild's Twitter Space from August 16, 2022, found here:
<https://twitter.com/i/spaces/1ynJOZIRYeEGR>

Tweet from Mason Rothschild linking to the August 16, 2022 Twitter Space recording, found here:
<https://twitter.com/MasonRothschild/status/1559661256398610432>

Audio and video recording of Mason Rothschild's Twitter Space from August 23, 2022, found here:
Part 1: <https://twitter.com/i/spaces/1djGXPWAgyXGZ>
Part 2: <https://twitter.com/i/spaces/1yoJMWPBrOoKQ>

Tweets from Mason Rothschild linking to the August 23, 2022 Twitter Space recordings, found here:
Part 1: <https://twitter.com/MasonRothschild/status/1562243476908961792>
Part 2: <https://twitter.com/MasonRothschild/status/1562249746361638912>